

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

DATE: JANUARY 28, 2008

JUDGE
LEONARD DAVIS

COURT REPORTER
SHEA SLOAN

LAW CLERKS: Andrea Houston, Paul Dyson

MASS ENGINEERED DESIGN, ET AL. vs ERGOTRON, INC., ET AL.	2:06 CV 272 PATENT CASE MOTION HEARING DOCKET #162 - MOTION TO COMPEL
--	--

ATTORNEYS FOR PLAINTIFFS	ATTORNEYS FOR DEFENDANT
Charlie Ainsworth (Parker Bunt) Gregory Maag (Conley Rose)	Kurt Niederluecke (Fredrikson & Byron) Lora Friedemann (Fredrikson & Bryon) Brian Craft (Ramey & Flock) Jeff Whiting (Wilson Sonsini Goodrich & Rosati)

On this day, came the parties by their attorneys and the following proceedings were had:

OPEN: 1:33 PM	ADJOURN: 2:13 PM
----------------------	-------------------------

TIME:	MINUTES:
1:33 pm	Case called. Counsel as listed above announced ready for their respective clients.
1:30 pm	Court invited the parties to proceed.
1:34 pm	Ms. Friedemann presented issues relative to the Motion to Compel. Discussed waiver, privileged communication, and licensing issues. Discussed attorney negligence.
1:39 pm	Court inquired as to the specifics of the scope of the waiver.
1:30 pm	Ms. Friedemann responded, elaborating on restriction issues.
1:42 pm	Court inquired as to what was said to the specific parties as to the privileged issues.
1:42 pm	Ms. Friedemann responded.
1:42 pm	Court asked specific questions as to representations made to the patent office.

CASE NO. 2:06cv272 DATE: JANUARY 28, 2008

PAGE 2 - PROCEEDINGS CONTINUED:

TIME:	MINUTES:
1:43 pm	Ms. Friedemann responded.
1:43 pm	Court asked as to when specific conversations took place.
1:43 pm	Ms. Friedemann responded after October 1, 1998.
1:44 pm	Court inquired as to cut-off dates. Ms. Friedemann responded.
1:44 pm	Court responded. Ms. Friedemann summed up.
1:45 pm	Court inquired as to when depositions were scheduled. Ms. Friedemann responded.
1:45 pm	Court asked for rebuttal.
1:46 pm	Mr. Maag discussed the waiver issues, patent office involvement and patent matters, introducing the ball joint issue.
1:50 pm	Court inquired as to how the patent on the ball joint relates to the Law Society of Upper Canada. Mr. Maag responded.
1:52 pm	Court asked specific questions regarding correspondence that was sent and the scope of the waiver. Mr. Maag responded.
1:53 pm	Court inquired as to information provided to the patent and trademark office dealing with the scope of the claim and scope of the prior art. Mr. Maag responded.
1:53pm	Court inquired as to the temporal limitation used. Mr. Maag responded.
1:53 pm	Court requested information regarding new communications with the copyrighting attorney.
1:54 pm	Mr. Maag responded
1:54 pm	Court asked for discussion as to representations made in the declarations, patent office representations and re-issuance. Mr. Maag responded.
1:55 pm	Court discussed the issues of the claims made relating to the prior art. Mr. Maag responded.
1:56 pm	Court questioned reliance on the 10/1/08 letter in reconsideration matter. Mr. Maag responded.
1:57 pm	Court requested a reply from Defendant. Ms. Friedemann responded.
1:59 pm	Court discussed issues pertaining to copyright attorney communications, disclosures made to the patent office, prior art and matters pertaining to the later invention.
1:59 pm	Ms. Friedemann responded, discussing inventorship issues.
1:59 pm	Mr. Maag discussed issues pertaining to claims, prior art, and waivers.
2:01 pm	Court requested Ms. Friedemann provide the information as to the new prior art?
2:01 pm	Ms. Friedemann responded.
2:01 pm	Court asked for discussion regarding a December 5, 2000 cut-off date.

CASE NO. 2:06cv272 DATE: JANUARY 28, 2008

PAGE 3 - PROCEEDINGS CONTINUED:

TIME:	MINUTES:
2:02 pm	Ms. Friedemann responded that additional work was performed on the patent after that date and provided letters for the Court's review.
2:03 pm	Court asked if the work performed had to do with the prior art. Ms. Friedemann responded.
2:04 pm	Court called attention back to the letters that were submitted.
2:04 pm	Ms. Friedemann responded, discussing redacting practices relative to disclosure.
2:05 pm	Court ask for unredacted copies of the materials to be submitted to the Court for sealed, in-camera review. Mr. Maag responded.
2:07 pm	Court inquired as to documentation provided that had not been redacted. Mr. Maag responded.
2:07 pm	Court instructed that the documents be filed with the clerks office for the Court's review. Ms. Friedemann was invited to continue.
2:07 pm	Ms. Friedemann continued, discussing redacted and unredacted correspondence that was provided by opposing counsel.
2:10 pm	Court asked for additional rebuttal. Mr. Maag responded.
2:11 pm	Court asked the parties about mediation of the case and encouraged the parties to put their best effort into their settlement proceedings.
2:12 pm	Court adjourned.